

PAY ADMINISTRATION

1. REASON FOR ISSUE: To revise Department of Veterans Affairs (VA) procedures related to biweekly premium pay limitations.

2. SUMMARY OF CONTENTS/MAJOR CHANGES: This handbook contains mandatory VA procedures on pay administration. The pages in this handbook replace the corresponding page numbers in part V, chapter 2 of VA Handbook 5007, dated April 15, 2002. These changes will be incorporated into the electronic version of VA Handbook 5007 that is maintained on the **Office of Human Resources Management website**. Significant changes include:

a. Ties the bi-weekly premium pay limitation to the higher of two rates: GS-15, step 10, or Level V of the Executive Schedule.

b. Clarifies that an appropriate official may apply an annual limitation for employees performing work in the aftermath of an emergency involving a direct threat to life or property in addition to the emergency itself.

c. Adds a discretionary authority under which an appropriate official may approve the use of an annual cap whenever it is determined that the work in question is critical to the mission of the agency and that an annual cap is needed.

3. RESPONSIBLE OFFICE: The Human Resources Management Programs and Policies Service (051), Office of the Deputy Assistant Secretary for Human Resources Management.

4. RELATED DIRECTIVES: VA Directive 5007, "Pay Administration."

5. RESCISSIONS: None.

CERTIFIED BY:

**BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS**

/s/John A. Gauss
Assistant Secretary for
Information and Technology

/s/William H. Campbell
Acting Assistant Secretary for
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PAY ADMINISTRATION

PART V. ADDITIONAL PAY AND PREMIUM PAY

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(c) In the case of an employee whose rate of basic compensation is in excess of the maximum rate for GS-10, the official authorized to approve overtime work may, at his or her own discretion, provide for compensatory time off in lieu of overtime pay. Such determination shall take into account all pertinent factors, including the employee's views. If, after consideration of all factors, paid overtime is indicated, prior approval will be requested from the field facility head. When a field facility of the National Cemetery [Administration] is involved, the director of the appropriate [Memorial Service Network] Office is the approving official. No such approval will be in effect for more than 3 months without a specific re-determination. An employee for whom compensatory time off is directed should be so notified at the time the overtime duty is ordered.

(4) Time Limits on Compensatory Time

(a) Compensatory time off should be taken as soon as possible after it is earned but not later than the end of the 7th pay period following the pay period in which it is earned. Compensatory time off may be taken only during the employee's basic workweek.

(b) For employees exempt from the Fair Labor Standards Act (FLSA), if compensatory time off is not taken within the time limit prescribed above because of the exigencies of the service, the employee will be paid for the overtime work at the overtime rate. If compensatory time is not taken within this period because of personal reasons not due to the exigencies of service, the right to compensatory time off or overtime pay for the duty performed is lost for FLSA-exempt employees. Non-exempt employees must be paid overtime pay.

(c) Compensatory time off must be taken or paid for prior to the effective date of the transfer. Under no circumstances will an obligation for compensatory time off be transferred to the receiving facility.

(d) The date of separation stated in an employee's advance notice of separation due to reduction in force may be administratively extended so as to include any compensatory time due. However, where, due to reasons beyond the control of the employee, compensatory time off is not taken prior to separation and no extension of the separation date is granted, overtime compensation is payable in lieu of the compensatory time off (26 Comp. Gen. 750).

5. OVERTIME PAY AND COMPENSATORY TIME OFF FOR EMPLOYEES IN POSITIONS SUBJECT TO THE FWS

a. Overtime pay is to be computed in accordance with the instructions contained in FWS Operating Manual, section S8-4 and 5 CFR, part 551, as appropriate. Overtime entitlement determinations for irregular and occasional overtime and computations for Purchase and Hire (P&H) employees shall be determined as follows, based upon whether or not the employee's position is covered by FLSA.

b. P&H employees in FLSA non-exempt positions (covered by FLSA) shall receive overtime compensation in accordance with 5 CFR, part 551, subpart E. Additional hourly compensation representing fringe benefit considerations and paid to the employee shall be used in computing overtime rates.

c. P&H employees in FLSA exempt positions (not covered by FLSA) shall receive overtime compensation for authorized work in excess of 8 hours in any one-day or 40 hours in any one week. Such overtime will be approved at such overtime rates as are customarily paid in the locality of the facility for work of a comparable nature, but not less than a rate of 150 percent of the basic hourly day rate of compensation. Additional hourly compensation representing fringe benefit considerations and paid to the employee shall be used in computing overtime rates. All fractional rates shall be computed to the nearest cent, counting one-half cent and over as a whole cent.

d. At the request of a FWS employee, **compensatory time off** may be authorized in lieu of payment for overtime hours. The following provisions apply:

(1) For employees covered by flexible work schedules, the overtime work need not be irregular or occasional. For other FWS employees, the overtime work must be irregular or occasional, i.e., scheduled after the beginning of the administrative workweek.

(2) The seven pay period time limit for using compensatory time applies to FWS employees in the same manner as for other title 5 employees. A FWS employee who is exempt from the provisions of the Fair Labor Standards Act (FLSA-exempt) and fails to take compensatory time earned before the expiration of the seven pay periods shall lose the right to compensatory time off and to overtime pay unless the failure is due to an exigency of the service beyond the employee's control. If compensatory time is not used by a non-exempt FLSA FWS employee before the expiration of the seven pay periods, the employee must be paid for overtime work at the applicable overtime rate.

(3) Managers may not require that FWS employees be compensated for overtime work via compensatory time off in lieu of overtime pay. An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with such employee's right to request or not to request compensatory time off in lieu of payment for overtime hours.

6. EXCEPTION TO THE BIWEEKLY [PREMIUM PAY LIMITATION] FOR [MISSION-CRITICAL AND] EMERGENCY WORK

a. Title 5 General Schedule employees who are exempt from FLSA may not receive any combination of premium pay, including overtime pay, which, when added to their base pay, results in total pay above the [higher of two] rate[s:] GS-15, step 10, [or the rate payable for Level V of the Executive Schedule] on a biweekly basis (see 5 CFR 550.105). The applicable rate for GS-15, step 10, includes any locality-based comparability payment or special salary rate, as applicable.

b. An exception to the biweekly limitation on overtime or other premium pay cited in paragraph a above may be made when the appropriate official determines that an emergency exists, e.g., a natural disaster, and that an employee is performing work related to that emergency [, or the aftermath of that emergency, involving a direct threat to life or property]. In this instance, such an employee may be paid overtime, or other premium pay, as applicable, based on an annual limitation (see 5 CFR 550.106). The annual limitation provides that in any calendar year [during which] an employee [has been] determined to be performing emergency work [, the employee] may be paid premium [pay] which when added to base pay doesn't result in total pay for the calendar year to exceed the [higher of two] rate[s:] GS-15, step 10

[, or the rate payable for Level V of the Executive Schedule] in effect on the last day of the calendar year. The authority to determine that an emergency exists and to authorize premium pay based on the annual maximum earnings limit instead of the biweekly limit has been delegated to [Under Secretaries], Assistant Secretaries and Other Key Officials, and may be redelegated. Officials should contact the Office of Human Resources Management (051) for the current delegation.

[c. An exception to the biweekly limitation on overtime or other premium pay cited in paragraph a above may be made when the appropriate official determines that the work in question is critical to the mission of the agency and that an annual cap is needed (see 5 CFR 550.106). The annual limitation provides that in any calendar year during which an employee has been determined to be performing work critical to the mission of the agency, the employee may be paid premium pay which when added to base pay doesn't result in total pay for the calendar year to exceed the higher of two rates: GS-15, step 10, or the rate payable for Level V of the Executive Schedule in effect on the last day of the calendar year. The authority to determine that the work is mission-critical and to authorize premium pay based on the annual maximum earnings limit instead of the biweekly limit has been delegated to [Under Secretaries], Assistant Secretaries and Other Key Officials, and may be redelegated. Officials should contact the Office of Human Resources Management (051) for the current delegation.]